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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/610,492	06/30/2003	Sean Hayes	MS1-1548US	5386

22801 7590 01/29/2007  
LEE & HAYES PLLC  
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SPOKANE, WA 99201

EXAMINER
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COBY, FRANTZ

ART UNIT	PAPER NUMBER
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2161

SHORTENED STATUTORY PERIOD OF RESPONSE	NOTIFICATION DATE	DELIVERY MODE
3 MONTHS	01/29/2007	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 01/29/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

lhptoms@leehayes.com

**Office Action Summary**

Application No.

10/610,492

Applicant(s)

HAYES ET AL.

Examiner

Frantz Coby

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-17, 19-32, 34-42 and 44-47 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-17, 19-32, 34-42 and 44-47 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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This is in response to communication from the United States Patent and trademark Office mailed on December 20, 2006 informing the Applicant that the above identified application is being withdrawn from issue pursuant to 37 CFR 1.313. Specifically, the application is being withdrawn to permit reopening of prosecution, because the application contains at least one claim that is unpatentable.

**Status of Claims**

Claims 1-17, 19-32, 34-42 and 44-47 are pending.

***After further search and reconsideration of the present Application, the Examiner has found new reference (SMIL 2.0, XML for Web Multimedia; IEEE, September 2001) published by Lloyd Rutledge that reads on the claims (Claims 1-17, 19-32, 34-42 and 44-47). In view of the newly found reference, the indication of allowable subject matter is withdrawn and a new ground of rejection is set forth below.***

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-17 and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by the SMIL 2.0 Standard, as summarized by the article "SMIL 2.0 XML for Web Multimedia" by Lloyd Rutledge, published in the September-October 2001 issue of IEEE Internet Computing (note applicant gave this article a 9/2001 publishing date on the IDS 1449 of 3/4/2005), herein after referred to as SMIL 2.0.

As per claims 1-3, 17 and 32, SMIL 2.0 teaches (see for example page 78) the features of SMIL 2.0, and then presents a "real life" example to illustrate the guiding principles of the standard. First, SMIL 2.0 is meant to be used on a computer (or other electronic device that can connect to the world wide web (the Internet), download media, and play the media) SMIL 2.0 continues to explain (see for example page 79) the 5 components necessary to complete the methodology, of which only 3 of the 5 components are claimed, comprising:

"Referencing one or more multimedia objects through a first set of one or more elements." This is taught by SMIL 2.0 at page 79 under the heading "Media Content" and visually taught within the "blue" text of the XML code found in figure 2 at page 80. SMIL 2.0 further describes (under the "Media Content" heading) that the content elements can be <img>, <video>, <text>, <animation>, and <textstream>.

"Associating the first set of one or more elements with a second set of one or more elements." SMIL 2.0 teaches (see page 79) that the "SMIL layout lets you control how each media object is arranged on the screen and integrated into the overall presentation" (lines 3-5 under the "Layout" heading). If the "media content" is taken as

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the claimed "first set" and the "layout" is taken as the "second set", SMIL 2.0 teaches that the first set is "associated" with the second set. Referring to figure 2 on page 80, the "red" lines of text within the ML code designate the layout elements. As can be clearly seen, the media content (blue text) appear on the same page as the layout elements (red text) and are thus "associated".

"Arranging the second set of one or more elements to indicate timing for the multimedia objects referenced by the first set of one or more elements." SMIL 2.0 teaches (see for example pages 79, 81 and 82) that "in Fiets, as in most SMIL presentations, timing elements (the purple code in figure 2) dominate the hierarchical composition of the document body. SMIL's timing elements <seq> and <par>, appear often and are always parents of other elements - typically other timing composites or media objects." (page 81, in the paragraph "Temporal composites"). SMIL 2.0 continues "To fine tune the general time line defined by SMIL's temporal composites, you assign timing attributes - begin, end and dur (duration) - to media object elements and timing composites." (see page 81, in the paragraph "Timing attributes"). SMIL 2.0 illustrates the timing with purple text in figure 2 of page 80. Thus, SMIL "arranges" elements of timing with the multimedia objects of the "first set".

Thus, the SMIL 2.0 STANDARD anticipates claim 1.

Note that claim 2 is taught by at least figure 2 of SMIL 2.0 which shows, for example at line 26, the pointer "<audio src='welcome.wav'" to point to the multimedia audio file.

Note that claim 3 is taught by at least figure 2 of SMIL 2.0, which shows the referencing, and the associating of claim 1 are all "performed" in the same document.

Note that claim 17 is merely claiming the environment for use of the method. As is clear from SMIL 2.0 (the "M" in SMIL stands for multimedia), the whole purpose of the standard is to provide content for a multimedia device. Note that claim 17 changed the statutory category from method to device, and thus can be treated as an independent claim under art.

Note that claim 32 is merely claiming the environment for use of the method. As is clear from SMIL 2.0 (the "M" in SMIL stands for multimedia), the whole purpose of the standard is to provide content for a multimedia device. Note that claim 32 changed the statutory category from method to device, and thus can be treated as an independent claim under art.

As per claims 4-16, these claims are at least rejected for their dependencies, directly or indirectly, on the rejected claims 1-3. They are therefore rejected as set forth above.

Claims 19-31, 34-42 and 44-47 are rejected under 35 U.S.C. 102(b) as being anticipated by the SMIL 2.0 "Synchronized Multimedia Integration Language (SMIL)

Boston Specification", available for comment on November 15, 1999, hereinafter referred to as SMIL99.

As per claim 19, SMIL99 teaches (see chapter M) referencing one or more multimedia objects with a first set of one or more elements (see chapter M, section 2.3.1 "content"), associating a second set of elements (see chapter M, section 2.3.1 "timing"), wherein the content elements are in one document and the timing elements are in a second document (see chapter M, section 2.3 "A Timesheet uses SMIL timing within a separate document or separate section of the content document and imposes that timing onto elements within the content document."). See also chapter M, section 2.3.2 for examples. Thus, claim 19 is anticipated by SMIL99.

As per claims 20-31, these claims are at least rejected for their dependencies, directly or indirectly, on the rejected claims 1-3 and 17. They are therefore rejected as set forth above.

As per claim 34, SMIL99 teaches (see chapter M) referencing one or more multimedia objects with a first set of one or more elements (see chapter M, section 2.3.1 "content"), associating a second set of elements (see chapter M, section 2.3.1 "timing"), wherein the content elements are in one document and the timing elements are in a second document (see chapter M, section 2.3 "A Timesheet uses SMIL timing within a separate document or separate section of the content document and imposes that

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timing onto elements within the content document."). See also chapter M, section 2.3.2 for examples. Throughout the document, reference is made to players and multimedia players. It is inherent that these players include a processor and memory to read the XML documents and present the content as described in the XML documents.

Thus, claim 34 is anticipated by SMIL99.

As per claims 40 and 44, SMIL99 teaches (see chapter M) referencing one or more multimedia objects with a first set of one or more elements (see chapter M, section 2.3.1 "content"), associating a second set of elements (see chapter M, section 2.3.1 "timing"), wherein the content elements are in one document and the timing elements are in a second document (see chapter M, section 2.3 "A Timesheet uses SMIL timing within a separate document or separate section of the content document and imposes that timing onto elements within the content document."). See also chapter M, section 2.3.2 for examples. Throughout the document, reference is made to players and multimedia players. It is inherent that these players include "computer readable media" containing the data structure to present the multimedia content.

Thus claim 40 and 44 are also anticipated by SMIL99.



As per claims 35-39, 41-42 and 45-47, these claims are at least rejected for their dependencies, directly or indirectly, on the rejected claims 34, 40 and 44. They are therefore rejected as set forth above.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz Coby whose telephone number is 571 272 4017. The examiner can normally be reached on Monday-Friday 9:00AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Gaffin can be reached on 571 272 4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

December 28, 2006

  
**FRANTZ COBY**  
**PRIMARY EXAMINER**